

Standard Method D6866, and for designating complex assembly product categories.

[76 FR 6321, Feb. 4, 2011, as amended at 79 FR 44654, Aug. 1, 2014]

### § 3201.2 Definitions.

These definitions apply to this part:

*Agricultural materials.* Agricultural-based, including plant, animal, and marine materials, raw materials or residues used in the manufacture of commercial or industrial, nonfood/nonfeed products.

*ASTM International.* ASTM International, a nonprofit organization organized in 1898, is one of the largest voluntary standards development organizations in the world with about 30,000 members in over 100 different countries. ASTM provides a forum for the development and publication of voluntary consensus standards for materials, products, systems, and services.

*BEES.* An acronym for “Building for Environmental and Economic Sustainability,” an analytic tool used to determine the environmental and health benefits and life cycle costs of products and materials, developed by the U.S. Department of Commerce National Institute of Standards and Technology.

*Biobased components.* Any intermediary biobased materials or parts that, in combination with other components, are functional parts of the biobased product.

*Biobased content.* Biobased content shall be determined based on the amount of biobased carbon in the material or product as a percent of weight (mass) of the total organic carbon in the material or product.

*Biobased product.* (1) A product determined by USDA to be a commercial or industrial product (other than food or feed) that is:

(i) Composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or

(ii) An intermediate ingredient or feedstock.

(2) The term “biobased product” includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the

product holds, the age of the product, or whether the market for the product is new or emerging.

*Biodegradability.* A quantitative measure of the extent to which a material is capable of being decomposed by biological agents, especially bacteria.

*Biological products.* Products derived from living materials other than agricultural or forestry materials.

*Complex assembly.* A system of distinct materials and components assembled to create a finished product with specific functional intent where some or all of the system inputs contain some amount of biobased material or feedstock.

*Designated intermediate ingredient or feedstock category.* A generic grouping of biobased intermediate ingredients or feedstocks identified in subpart B of this part that, when comprising more than 50 percent (or another amount as specified in subpart B of this part) of a resultant final product, qualifies the resultant final product for the procurement preference established under section 9002 of FSRIA.

*Designated product category.* A generic grouping of biobased products, including those final products made from designated intermediate ingredients or feedstocks, or complex assemblies identified in subpart B of this part, that is eligible for the procurement preference established under section 9002 of FSRIA.

*Diluent.* A substance used to diminish the strength, scent, or other basic property of a substance.

*Engineered wood products.* Products produced with a combination of wood, food fibers and adhesives.

*EPA-designated recovered content product.* A product, designated under the Resource Conservation and Recovery Act, that is subject to Federal procurement as specified in section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962), whereby Federal agencies must give preferred procurement to those products composed of the highest percentage of recovered materials practicable, subject to availability, cost, and performance.

*FCEA.* The Food, Conservation and Energy Act of 2008, Pub. L. 110-246.

*Federal agency.* Any executive agency or independent establishment in the

legislative or judicial branch of the Government (except the Senate, the House of Representatives, the Architect of the Capitol, and any activities under the Architect's direction).

*Filler.* A substance added to a product to increase the bulk, weight, viscosity, strength, or other property.

*Forest product.* A product made from materials derived from the practice of forestry or the management of growing timber. The term “forest product” includes:

(1) Pulp, paper, paperboard, pellets, lumber, and other wood products; and

(2) Any recycled products derived from forest materials.

*Forest thinnings.* Refers to woody materials removed from a dense forest, primarily to improve growth, enhance forest health, or recover potential mortality. (To recover potential mortality means to remove trees that are going to die in the near future.)

*Formulated product.* A product that is prepared or mixed with other ingredients, according to a specified formula and includes more than one ingredient.

*FSRIA.* The Farm Security and Rural Investment Act of 2002, Public Law 107–171, 116 Stat. 134 (7 U.S.C. 8102).

*Functional unit.* A measure of product technical performance that provides a common reference to which all environmental and economic impacts of the product are scaled. This reference is necessary to ensure comparability of performance results across competing products. Comparability of results is critical when competing product alternatives are being assessed to ensure that such comparisons are made on a common basis. For example, the functional unit for competing interior paint products may be defined as “protecting one square foot of interior wall surface for 50 years.”

*Ingredient.* A component; part of a compound or mixture; may be active or inactive.

*Intermediate ingredient or feedstock.* A material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials that have undergone value added processing (including thermal, chemical, biological, or a significant

amount of mechanical processing), excluding harvesting operations, offered for sale by a manufacturer or vendor and that is subsequently used to make a more complex compound or product.

*ISO.* The International Organization for Standardization, a network of national standards institutes from 145 countries working in partnership with international organizations, governments, industries, business, and consumer representatives.

*Neat product.* A product that is made of only one ingredient and is not diluted or mixed with other substances.

*Procuring agency.* Any Federal agency that is using Federal funds for procurement or any person contracting with any Federal agency with respect to work performed under the contract.

*Qualified biobased product.* A product that is eligible for Federal preferred procurement because it meets the definition and minimum biobased content criteria for one or more designated product categories, or one or more designated intermediate ingredient or feedstock categories, as specified in subpart B of this part.

*Relative price.* The price of a product as compared to the price of other products on the market that have similar performance characteristics.

*Relevant stakeholder.* Individuals or officers of state or local government organizations, private non-profit institutions or organizations, and private businesses or consumers.

*Renewable chemical.* A monomer, polymer, plastic, formulated product, or chemical substance produced from renewable biomass.

*Residues.* That which remains after a part is taken, separated, removed, or designated; a remnant; a remainder; and, for this purpose, is from agricultural materials, biological products, or forestry materials.

*Secretary.* The Secretary of the United States Department of Agriculture.

*Small and emerging private business enterprise.* Any private business which will employ 50 or fewer new employees and has less than \$1 million in projected annual gross revenues.

*Sustainably managed forests.* Refers to the practice of a land stewardship ethic

that integrates the reforestation, management, growing, nurturing, and harvesting of trees for useful products while conserving soil and improving air and water quality, wildlife, fish habitat, and aesthetics.

[70 FR 1809, Jan. 11, 2005, as amended at 71 FR 13704, Mar. 16, 2006; 71 FR 42575, July 27, 2006; 76 FR 6321, Feb. 4, 2011; 79 FR 44654, Aug. 1, 2014; 80 FR 34029, June 15, 2015]

### § 3201.3 Applicability to Federal procurements.

(a) *Applicability to procurement actions.* The guidelines in this part apply to all procurement actions by procuring agencies involving items designated by USDA in this part, where the procuring agency purchases \$10,000 or more worth of one of these items during the course of a fiscal year, or where the quantity of such items or of functionally equivalent items purchased during the preceding fiscal year was \$10,000 or more. The \$10,000 threshold applies to Federal agencies as a whole rather than to agency subgroups such as regional offices or subagencies of a larger Federal department or agency.

(b) *Exception for procurements subject to EPA regulations under the Solid Waste Disposal Act.* For any procurement by any procuring agency that is subject to regulations of the Administrator of the Environmental Protection Agency under section 6002 of the Solid Waste Disposal Act as amended by the Resource Conservation Act of 1976 (40 CFR part 247), these guidelines do not apply to the extent that the requirements of this part are inconsistent with such regulations.

(c) *Procuring products composed of the highest percentage of biobased content.* Section 9002(a)(2) of FSRIA requires procuring agencies to procure qualified biobased products composed of the highest percentage of biobased content practicable or such products that comply with the regulations issued under section 103 of Public Law 100-556 (42 U.S.C. 6914b-1). Procuring agencies may decide not to procure such qualified biobased products if they are not reasonably priced or readily available or do not meet specified or reasonable performance standards.

(d) This guideline does not apply to purchases of qualified biobased products that are unrelated to or incidental to Federal funding; i.e., not the direct result of a contract or agreement with persons supplying items to a procuring agency or providing support services that include the supply or use of products.

(e) *Exemptions.* The following applications are exempt from the preferred procurement requirements of this part:

(1) Military equipment: Products or systems designed or procured for combat or combat-related missions.

(2) Spacecraft systems and launch support equipment.

[71 FR 42575, July 27, 2006, as amended at 73 FR 27953, May 14, 2008; 76 FR 6321, Feb. 4, 2011; 79 FR 44655, Aug. 1, 2014]

### § 3201.4 Procurement programs.

(a) *Integration into the Federal procurement framework.* The Office of Federal Procurement Policy, in cooperation with USDA, has the responsibility to coordinate this policy's implementation in the Federal procurement regulations. These guidelines are not intended to address full implementation of these requirements into the Federal procurement framework. This will be accomplished through revisions to the Federal Acquisition Regulation.

(b) *Federal agency preferred procurement programs.* (1) On or before July 31, 2015, each Federal agency shall develop a procurement program which will assure that qualified biobased products are purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement laws. Each procurement program shall contain:

(i) A preference program for purchasing qualified biobased products;

(ii) A promotion program to promote the preference program;

(iii) Provisions for the annual review and monitoring of the effectiveness of the procurement program; and

(iv) Provisions for reporting quantities and types of biobased products purchased by the Federal agency.

(2) In developing the preference program, Federal agencies shall adopt one of the following options, or a substantially equivalent alternative, as part of the procurement program: